

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

SUHAIL NAJIM ABDULLAH AL  
SHIMARI, *et al.*,

Plaintiffs,

v.

CACI PREMIER TECHNOLOGY, INC.,

Defendant.

No. 1:08-cv-827 (LMB/JFA)

CACI PREMIER TECHNOLOGY, INC.,

Third-Party Plaintiff,

v.

UNITED STATES OF AMERICA,  
and JOHN DOES 1–60,

Third-Party Defendants.

**THE UNITED STATES’ DEPOSITION DESIGNATIONS AND OBJECTIONS  
TO PLAINTIFFS’ AND CACI’S DEPOSITION DESIGNATIONS**

Pursuant to the Court’s October 25, 2018, Order (Doc. 974), the United States submits its deposition designations and its objections to Plaintiffs’ and CACI’s previously-filed deposition designations (*see* Docs. 971, 972).

In an effort to avoid unnecessary duplication of effort and to promote judicial efficiency, the United States has not designated deposition testimony that has already been designated by Plaintiffs or CACI. Should a designating party withdraw certain of its deposition designations, the

United States reserves its rights to redesignate some or all of that testimony to the extent that the United States has not objected to that testimony below.

The United States objects to any party's attempt to use against it deposition testimony that either: (i) was taken in the *Saleh* or *Ibrahim* actions, to which the United States was not a party,<sup>1</sup> or (ii) was taken in this action before the United States was named by CACI as a third-party defendant. *See, e.g.*, Fed. R. Civ. P. 32(a).<sup>2</sup>

The United States reserves its rights to make additional designations in light of future discovery in this case, and based on events at trial.

#### CACI Interrogator A

The United States designates the testimony at 174:4-11, 174:19-21, 175:5-7, and 209:7-14.

<u>Designated testimony</u>	<u>Objections</u>	<u>Counter-designations</u>
26:18-20, 27:4, 27:6-12, 27:21, 28:1-11, 28:13, 28:15, 28:17, 28:19-29:10, 29:14-30:21, 31:4, 31:6, 31:8-34:4	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	If this testimony is admitted, 34:6-11
55:12-14, 55:16, 55:18-21, 56:1, 56:3-11	Lack of Relevance (FRE 402); Waste of Time (FRE 403)	

<sup>1</sup> Although Plaintiffs and CACI have agreed to make use of discovery from the *Saleh* and *Ibrahim* actions in this case, the parties have agreed, and the Court has ordered, that “the United States’ rights to object to the admissibility of any discovery or filings made in” those cases “are expressly preserved.” (Doc. 704, Agreed Supplement to Protective Order, ¶ 17.)

<sup>2</sup> Specifically, the parties may not use designated deposition testimony from the following deponents against the United States: (1) James Beachner; (2) William Brady; (3) Ivan Frederick; (4) Charles Graner; (5) Megan Ambuhl Graner; (6) Sabrina Harman; (7) Warren Hernandez; (8) Carolyn Holmes; (9) Hydrue Joyner; (10) Amy Monahan; (11) Charles Mudd; (12) Torin Nelson; (13) Scott Northrop; (14) Daniel Porvaznik; and (15) CACI’s 30(b)(6) designee, Arnold Morse. Moreover, to the extent that some or all of the Plaintiffs do not testify live at trial, the parties may not use the deposition testimony of Plaintiffs Al Shimari, Al Zubae, and Al Ejaili against the United States.

115:5-116:6, 116:15-117:2	Lack of Relevance (FRE 402); Waste of Time (FRE 403)	
123:17-20	Lack of Relevance (FRE 402); Waste of Time (FRE 403)	
134:2-7	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404); Improper Opinion Testimony (FRE 701)	If this testimony is admitted, 34:6-11
160:9-161:19	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	If this testimony is admitted, 34:6-11
162:16-22	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
163:10-164:9	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
164:22-165:17	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404); Improper Opinion Testimony (FRE 701)	
166:20-167:16	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues,	

	Misleading (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
186:2-7	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
188:21-190:1	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404); Improper Opinion Testimony (FRE 701)	
191:15-20	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404); Improper Opinion Testimony (FRE 701)	
192:18-22	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
193:13-194:19	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404); Improper Opinion Testimony (FRE 701)	
209:21-22, 210:14-211:8	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading (FRE 403);	

	Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
--	--	--

Army Interrogator B

The United States designates the testimony at 35:20-36:7.

<u>Designated testimony</u>	<u>Objections</u>	<u>Counter-designations</u>
40:15-41:19	Lack of Relevance (FRE 402); Waste of Time (FRE 403)	
56:9-57:7	Lack of Relevance (FRE 402); Unfairly Prejudicial (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	If this testimony is admitted, 86:16-87:6 and 87:12-22
66:21-22	Incomplete	
79:9-80:19	Lack of Relevance (FRE 402); Unfairly Prejudicial (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	If this testimony is admitted, 86:16-87:6 and 87:12-22

Army Interrogator C

The United States designates the testimony at 15:2-4.

<u>Designated testimony</u>	<u>Objections</u>	<u>Counter-designations</u>
22:10-23:16	Lack of Relevance (FRE 402); Waste of Time (FRE 403)	
29:8-12	Lack of Relevance (FRE 402); Waste of Time (FRE 403)	
34:11-13	Lack of Relevance (FRE 402); Confusing the Issues (FRE 403)	
47:1-3	Incomplete	
47:19-48:2	Lack of Relevance (FRE 402); Waste of Time (FRE 403)	
61:22-62:14	Lack of Relevance (FRE 402); Confusing the Issues (FRE 403)	

Army Interrogator E

<u>Designated testimony</u>	<u>Objections</u>	<u>Counter-designations</u>
27:2-6	Lack of Foundation	
33:10-14	Lack of Relevance (FRE 402); Waste of Time (FRE 403)	
34:2-17	Lack of Relevance (FRE 402); Waste of Time (FRE 403)	
40:9-19	Lack of Relevance (FRE 402); Confusing the Issues (FRE 403)	
60:10-15	Incomplete	
76:10-78:7	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	If this testimony is admitted, 179:4-182:22
78:13-16	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	If this testimony is admitted, 179:4-182:22
82:19-85:5	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	If this testimony is admitted, 179:4-182:22
128:11-19	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	If this testimony is admitted, 179:4-182:22
129:7-10	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	

159:7-161:10	Lack of Personal Knowledge (FRE 602) (see 159:18-160:1), Lack of Foundation; Hearsay (FRE 802) (160:2-7)	
174:5-22	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404); Hearsay (FRE 802) (174:12-19)	
176:18-177:17	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404); Hearsay (FRE 802) (176:18-177:13)	
185:3-186:20	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
186:22-187:3	Lack of Relevance (FRE 402); Confusing the Issues (FRE 403)	

Army Interrogator F

The United States designates the testimony at 17:17-18, 17:20, 60:16-61:1, 80:8-81:2, 89:9-11, 94:5-13, 124:8-11, 126:2-21, and 130:2-5.

<u>Designated testimony</u>	<u>Objections</u>	<u>Counter-designations</u>
30:1-11	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
37:3-14	Lack of Relevance (FRE 402); Waste of Time (FRE 403)	
81:21-82:10	Misleading (FRE 403)	If this testimony is admitted, 94:17-95:1, 95:5-12

Army Interrogator H

The United States designates the testimony at 18:9-11, 79:4-13, 80:9-81:5, 124:22-125:2, 125:4, 128:4-7, and 155:6-13.

<u>Designated testimony</u>	<u>Objections</u>	<u>Counter-designations</u>
21:19-20	Incomplete	
25:5-6	Incomplete	
29:22-31:13	Lack of Relevance (FRE 402); Waste of Time / Confusing the Issues (FRE 403)	
36:13-14	Incomplete	
107:18-108:11	Lack of Relevance (FRE 402); Unfairly Prejudicial (FRE 403);	

Army Interrogator I

The United States designates the testimony at 17:20-21, 18:3-7, 68:21-69:7, 74:1-4, 100:1-4, 118:11-16, 128:9-12, and 128:16-18.

<u>Designated testimony</u>	<u>Objections</u>	<u>Counter-designations</u>
20:7-12, 20:18-21, 21:16-19	Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404); Improper Impeachment (FRE 609)	
22:9-10	Lack of Relevance (FRE 402)	
30:5-31:2	Lack of Relevance (FRE 402); Waste of Time / Confusing the Issues (FRE 403)	
51:19-52:8, 52:13-53:1	Lack of Relevance (FRE 402); Waste of Time / Confusing the Issues (FRE 403)	
87:7-10	Lack of Relevance (FRE 402); Confusing the Issues / Misleading (FRE 403)	If this testimony is admitted, 87:11-22
92:22-93:2	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	If the testimony is admitted, 94:21-95:1, 95:4-10, 95:18-20, 96:1



109:4-22	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading, Waste of Time (FRE 403)	
118:17-120:5	Lack of Relevance (FRE 402); Confusing the Issues, Misleading, Waste of Time (FRE 403); Hearsay (FRE 802) (119:6-120:5)	
121:6-123:1	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading, Waste of Time (FRE 403); Hearsay (FRE 802) (121:6-122:17); Improper Opinion Testimony (FRE 701) (122:18-123:1)	
123:14-19	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading, Waste of Time (FRE 403)	
125:17-126:3	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading, Waste of Time (FRE 403); Hearsay (FRE 802)	
140:3-11	Hearsay (FRE 802)	
153:9-19	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading, Waste of Time (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404); Improper Opinion Testimony (FRE 701)	
183:14-184:8	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading, Waste of Time (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404);	

	Hearsay (FRE 802) (183:14-184:3)	
185:6-13	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading, Waste of Time (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404); Hearsay (FRE 802)	
187:14-188:4	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading, Waste of Time (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404); Hearsay (FRE 802)	
188:8-16	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading, Waste of Time (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404); Hearsay (FRE 802)	

Interpreter K

<u>Designated testimony</u>	<u>Objections</u>	<u>Counter-designations</u>
75:3-10	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
124:1-13	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
172:13-173:13	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	

Interpreter M

The United States designates the testimony at 39:7-12 and 39:17-19.

<u>Designated testimony</u>	<u>Objections</u>	<u>Counter-designations</u>
103:4-16 (portion of testimony designated)	Lack of relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	

William Cathcart

The United States has no reason to believe that Mr. Cathcart would not be available to testify live at trial. To the extent that he is, unbeknownst to the United States, not available to testify live, the United States designates the testimony at 51:3-51:18, 73:18-20, 77:1-15, 94:10-19, 95:4-6, 99:4-7, 110:16-20, 115:17-22, 162:6-11, 163:5-20, and 164:19-165:2.

<u>Designated testimony</u>	<u>Objections</u>	<u>Counter-designations</u>
44:16-46:5	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
91:14-92:4, 92:16-93:7	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
99:8-100:1	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
107:16-108:15	Lack of Relevance (FRE 402); Confusing the Issues, Misleading (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
117:21-120:21		120:22-122:1

133:9-135:1	Lack of Relevance (FRE 402); Confusing the Issues, Misleading (FRE 403)	
138:2-22	Lack of Relevance (FRE 402); Confusing the Issues, Misleading (FRE 403)	
142:8-147:8	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404); Hearsay (FRE 802) (142:8-144:3, 144:18-19)	
159:18-160:1		160:6-10

Ivan Frederick, II

<u>Designated testimony</u>	<u>Objections</u>	<u>Counter-designations</u>
40:2-48:24	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Hearsay (FRE 802)	
52:22-65:21	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Hearsay (FRE 802), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
67:6-73:2	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Hearsay (FRE 802), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
84:6-85:8	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
85:21-94:16	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Hearsay (FRE 802), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	

98:18-99:2	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
102:13-110:5	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Hearsay (FRE 802), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
115:12-126:8	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Hearsay (FRE 802), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
126:20-127:3	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
127:14-138:4	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404), Hearsay (FRE 802)	
142:14-146:12	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404), Hearsay (FRE 802)	
158:20-159:15	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404), Hearsay (FRE 802)	
164:19-165:4	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	

165:19-171:6	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404), Hearsay (FRE 802)	
172:15-173:12	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
173:20-25	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
174:21	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
174:25-175:20	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
176:22-178:10	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
180:13-181:8	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
181:20-182:6	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
199:14-24	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	

Charles Graner

<u>Designated testimony</u>	<u>Objections</u>	<u>Counter-designations</u>
38:23-43:7	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Hearsay (FRE 802), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	

Megan Ambuhl Graner

<u>Designated testimony</u>	<u>Objections</u>	<u>Counter-designations</u>
25:17-19	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
26:11-27:11	Hearsay (FRE 802)	
36:7-21	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403)	
37:12-21	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403),	
46:4-8	Lack Of Relevance (FRE 402)	
46:13-17	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	

Sabrina Harman

<u>Designated testimony</u>	<u>Objections</u>	<u>Counter-designations</u>
22:12-24:9	Lack of relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
24:17-28:6	Lack of relevance (FRE 402), Unfairly Prejudicial (FRE 403), hearsay (FRE 802),	

	Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
28:17-29:4	Lack of relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
32:5-33:3	Lack of relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
35:6-37:11	Lack of relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
41:17-43:9	Lack of relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	

Warren Hernandez

<u>Designated testimony</u>	<u>Objections</u>	<u>Counter-designations</u>
19:17-21:23	Hearsay (FRE 802)	
24:22-25:25	Lack of relevance (FRE 402), Unfairly Prejudicial (FRE 403), hearsay (FRE 802), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
36:16-37:10	Lack of relevance (FRE 402), Unfairly Prejudicial (FRE 403), hearsay (FRE 802),	

Carolyn Holmes

<u>Designated testimony</u>	<u>Objections</u>	<u>Counter-designations</u>
60:9-61:18	Hearsay (FRE 802)	



Hydrue Joyner

<u>Designated testimony</u>	<u>Objections</u>	<u>Counter-designations</u>
61:12-63:16	Lack of relevance (FRE 402), Unfairly Prejudicial (FRE 403), hearsay (FRE 802)	

Arnold D. Morse (CACI 30(b)(6))

The United States believes that Mr. Morse is available to testify live at trial. To the extent that he is, unbeknownst to the United States, not available to testify live, the United States designates the testimony at 51:17-52:7, 53:2-55:8, 56:3-25, 125:10-126:24, 158:4-160:13, 162:13-163:6, 169:15-170:9, 202:8-203:2, 203:10-16, 204:16-205:19, and 208:4-25.

<u>Designated testimony</u>	<u>Objections</u>	<u>Counter-designations</u>
75:22-76:15	Hearsay (FRE 802)	
76:24-77:4	Hearsay (FRE 802)	
94:9-96:8	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading, Waste of Time (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404); Hearsay (FRE 802)	
100:5-108:21	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading, Waste of Time (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404); Hearsay (FRE 802)	
110:9-14	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading, Waste of Time (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
111:15-112:9	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading, Waste of Time (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading, Waste of Time (FRE 403); Character Evidence /	

	Crimes, Wrongs, or Other Acts (FRE 404)	
165:24-166:8	Misleading (FRE 403)	
197:14-198:24	Lack of Relevance (FRE 402); Unfairly Prejudicial, Confusing the Issues, Misleading, Waste of Time (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404); Hearsay (FRE 802)	

Charles Mudd

<u>Designated testimony</u>	<u>Objections</u>	<u>Counter-designations</u>
101:5-24	Subsequent remedial measure (FRE 407)	
117:24-118:19	Subsequent remedial measure (FRE 407)	

Torin Nelson

<u>Designated testimony</u>	<u>Objections</u>	<u>Counter-designations</u>
22:7-20 <sup>3</sup>	Incomplete	If this testimony is allowed, 22:21-23:2
32:23-35:23	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Hearsay (FRE 802), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
37:9-24	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
41:4-43:21	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Hearsay (FRE 802), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
46:15-47:15	Lack Of Relevance (FRE 402), Unfairly Prejudicial	

<sup>3</sup> Plaintiffs designated “22:2-20.” (See Doc. 972 at 10.) By email, Plaintiffs’ counsel clarified that Plaintiffs intended to designate 22:7-20.

	(FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
54:7-57:25	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
58:1-60:10	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
69:14-72:3	Lack Of Relevance (FRE 402), Unfairly Prejudicial (FRE 403), Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	

Major General Antonio M. Taguba

<u>Designated testimony</u>	<u>Objections</u>	<u>Counter-designations</u>
27:20-28:6	Lack of Foundation (FRE 602)	
51:18-51:22	Lack of Foundation (FRE 602)	
56:2-56:22	Hearsay (FRE 802); Lack of Foundation (FRE 602); Lack of Personal Knowledge (FRE 602)	
70:1-71:10	Hearsay (FRE 802); Lack of Foundation (FRE 602); Lack of Personal Knowledge (FRE 602)	
75:3-76:7	Hearsay (FRE 802); Lack of Foundation (FRE 602); Lack of Personal Knowledge (FRE 602)	
98:4-98:14	Lack of Foundation (FRE 602) Hearsay (FRE 802)	

110:20-112:15	Lack of Relevance (FRE 402); Unfairly Prejudicial (FRE 403)	
124:16-124:22	Lack of Foundation (FRE 602)	
130:16-130:20	Hearsay (FRE 802); Lack of Foundation (FRE 602); Lack of Personal Knowledge (FRE 602)	
130:21-131:6	Lack of Foundation (FRE 602); Confusing the Issues (FRE 403)	
131:17-132:17	Lack of Foundation (FRE 602)	
135:2-135:15	Hearsay (FRE 802); Lack of Foundation (FRE 602); Lack of Personal Knowledge (FRE 602)	
136:13-137:2	Lack of Foundation (FRE 602); Lack of Personal Knowledge (FRE 602)	
138:16-139:9	Lack of Foundation (FRE 602); Lack of Personal Knowledge (FRE 602); Hearsay (FRE 802); Unfairly Prejudicial (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
139:16-139:21	Lack of Foundation (FRE 602); Lack of Personal Knowledge (FRE 602); Unfairly Prejudicial (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
140:1-140:6	Lack of Foundation (FRE 602); Lack of Personal Knowledge (FRE 602);	

	Unfairly Prejudicial (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
140:13-141:6	Lack of Foundation (FRE 602); Lack of Personal Knowledge (FRE 602); Unfairly Prejudicial (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
141:14-148:16	Lack of Foundation (FRE 602); Lack of Personal Knowledge (FRE 602); Unfairly Prejudicial (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
153:10-153:17	Lack of Foundation (FRE 602); Lack of Personal Knowledge (FRE 602); Unfairly Prejudicial (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
153:22-154:9	Lack of Foundation (FRE 602); Lack of Personal Knowledge (FRE 602); Unfairly Prejudicial (FRE 403); Character Evidence / Crimes, Wrongs, or Other Acts (FRE 404)	
154:20-155:11	Hearsay (FRE 802); Lack of Foundation (FRE 602); Lack of Personal Knowledge (FRE 602)	

Dated: November 23, 2018

Respectfully submitted,

G. ZACHARY TERWILLIGER  
United States Attorney

JOSEPH H. HUNT  
Assistant Attorney General, Civil Division

JAMES G. TOUHEY, JR.  
Director, Torts Branch

ANTHONY J. COPPOLINO  
Deputy Director, Federal Programs Branch

RUPERT M. MITSCH  
Assistant Director, Torts Branch

ADAM G. KIRSCHNER  
ERIC J. SOSKIN  
Senior Trial Counsel, Federal Programs Branch

/s/ Daniel D. Mauler  
ELLIOTT M. DAVIS  
PAUL STERN  
JOCELYN KRIEGER  
DANIEL D. MAULER  
Trial Attorneys, Civil Division  
United States Department of Justice  
1100 L Street, NW  
Washington, DC 20005  
Tel: (202) 616-0773  
Fax: (202) 616-8470  
Email: dan.mauler@usdoj.gov

LAUREN A. WETZLER  
Chief, Civil Division  
Assistant United States Attorney  
United States Attorney's Office

*Counsel for the United States of America*

**CERTIFICATE OF SERVICE**

I certify that on November 23, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which sent a notification of such filing (NEF) to the following counsel of record:

John Kenneth Zwerling  
The Law Offices of John Kenneth Zwerling, P.C.  
114 North Alfred Street  
Alexandria, VA 22314  
jz@zwerling.com

John F. O'Connor  
Steptoe & Johnson LLP  
1330 Connecticut Ave., N.W.  
Washington, DC 20036  
joconnor@steptoe.com

William D. Dolan, III  
Law Offices of William D. Dolan, III, PC  
8270 Greensboro Drive, Suite 700  
Tysons Corner, VA 22102  
wdolan@dolanlaw.net

\_\_\_\_\_/s/\_\_\_\_\_  
DANIEL D. MAULER  
Trial Attorney, Civil Division  
United States Department of Justice  
1100 L Street, NW  
Washington, DC 20005  
Tel: (202) 616-0773  
Fax: (202) 616-8470  
Email: dan.mauler@usdoj.gov